
Public Utilities Commission of the State of California

Public Agenda 3152

Thursday, May 5, 2005 10:00 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

Geoffrey F. Brown

Dian M. Grueneich

Susan P. Kennedy

For each agenda item, a summary of the proposed action is included; the Commission's decision may, however, differ from that proposed.

Website: <http://www.cpuc.ca.gov>

Scheduled Commission Meetings

505 Van Ness Avenue, San Francisco

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <i>Closed to the Public</i>	<i>Commission Meeting</i> Auditorium (10 a.m.) <i>Open to the Public</i>
Monday, May 23, 2005 (San Francisco)	Thursday, May 05, 2005 (San Francisco)
Monday, June 13, 2005 (San Francisco)	Thursday, May 26, 2005 (San Francisco)
Monday, June 27, 2005 (San Francisco)	Thursday, June 16, 2005 (San Francisco)
	Thursday, June 30, 2005 (San Francisco)

**Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

Matters of Public Interest

For the convenience of the public and media representatives, items of widespread public interest will be taken up at the beginning of the meeting.

For further information contact the Public Advisor
(415) 703-2074 E-mail: public.advisor@cpuc.ca.gov



This location is accessible to people with disabilities. If specialized accommodations for the disabled are needed, e.g. sign language interpreters, please call the Public Advisor at (415) 703-2074 or TTY# (415) 703-5282 or toll free # 1-866-836-7825 three business days in advance of the meeting.

PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda.
-

Public Comment:

Consent Agenda

Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.

Consent Agenda - Orders and Resolutions

- 1**
[4339] **Res TL- 19058**
Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.
- 2**
[4341] **Res ALJ 176-3152**
Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194676
- 3**
[4416] **R03-07-007 - Rulemaking on the Commission's own motion for the purpose of amending the Commission's Conflict of Interest Code.**
This decision adopts amendments to the Commission's Conflict of Interest Code after further modifying the rules contained in the Order Instituting Investigation, as modified by D03-09-012. This proceeding is closed.
(Comr Brown - ALJ Grau)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.
Agenda 3151, Item 9 4/21/2005 (Staff)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194576

Consent Agenda - Orders and Resolutions (continued)

- 4**
[4451] **A05-01-023 - Alliance for Retail Energy Markets (AReM).**
This decision grants AReM's application for modification of Resolution E-3906 to allow for protests of Pacific Gas and Electric Company Advice Letter 2555-G-A/2521-E-A. This proceeding is closed.
(Exam Gallagher)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194487
- 5**
[4453] **I04-08-021 - In the matter of the Order Instituting Investigation and Order to Show Cause on the Commission's own motion into the operations and practices of Warner Lee Fischer, an individual, Pacific Coast Moving & Storage, Inc., a Nevada corporation, its president, Warner Lee Fischer, and its Vice President, Philip Edward Dresser, Jr.**
This decision denies the application with prejudice, imposes a fine \$40,000, imposes \$6,931.83 in costs, and requires restitution. This proceeding is closed.
(Comr Brown - ALJ Yacknin)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Adjudicatory.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194612
- 6**
[4454] **I01-04-002 - Order Instituting Investigation whether Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and their respective holding companies, PG&E Corporation, Edison International, and Sempra Energy, respondents, have violated relevant statutes and Commission decisions, and whether changes should be made to rules, orders, and conditions pertaining to respondents' holding company system.**
A87-05-007, A94-11-013, A95-10-024, A96-10-038 - Related matters. This decision closes these proceedings on the ground that the Commission does not find – and no party has indicated – that any issue pending in the proceedings requires current resolution. These proceedings are closed.
(Comr Brown - ALJ Thomas)
Pub. Util. Code § 311 – This item was mailed for Public Comment.
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194611
- 7**
[4461] **Res W-4531 - Mesa Crest Water Company (MCWC).**
This resolution authorizes MCWC a general rate increase producing an additional annual revenue of \$70,682 or 8.4% in 2004 and an additional \$49,573 or 5.4% in 2005.
Agenda 3151, Item 17 4/21/2005 (Staff)

Consent Agenda - Orders and Resolutions (continued)

8
[4464] **I02-11-040 - Order Instituting Investigation into the gas market activities of Southern California Gas Company, San Diego Gas & Electric Company, Southwest Gas Company, Pacific Gas and Electric Company, and Southern California Edison Company and their impact on the gas price spikes experienced at the California border from March 2000 through May 2001.**

Sempra Energy Trading Corporation (SET) has filed a motion asking the full Commission to reverse the rulings of the Law and Motion Administrative Law Judges requiring SET to provide certain discovery, pursuant to subpoenas duces tecum issued in this investigation, at its own expense. This decision denies the motion since the Commission generally disfavors interlocutory appeals of discovery issues except upon an extraordinary showing of good cause. The Commission has carefully reviewed SET's claims, but the required showing has not been made.

(Comr Brown - ALJ TerKeurst)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194632

9
[4507] **R98-07-038 - Rulemaking for the purposes of revising General Order 96-A regarding informal filings at the Commission.**

This decision awards The Utility Reform Network \$29,773.94 in compensation for its contribution to D01-07-026, D02-01-038, and D05-01-032.

(Comr Kennedy - ALJ Koss)

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=192691

10
[4513] **Res W-4534 - Great Oaks Water Company.**

This resolution approves Great Oaks Water Company's Advice Letter 169-W filed on April 8, 2005.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=193511

11
[4514] **Res W-4533 - Del Oro Water Company (DOWC), Paradise Pines District.**

This resolution authorizes DOWC, Paradise Pines District a general rate increase producing additional annual revenue of \$97,540 or 7.07% in 2005.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=193325

Consent Agenda - Orders and Resolutions (continued)

- 12** **A04-11-013 - Pacific Gas and Electric Company.**
[4519] For an ex parte Order granting limited exemptions from the Affiliate Transaction Rules adopted in D97-12-088, as subsequently modified. This decision changes the Commission's preliminary determination from "ratesetting/no hearings," to "ratesetting/hearings."
(Comr Kennedy - ALJ Vieth)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=192580
- 13** **Res T-16934 - SBC Advanced Solutions, Inc.**
[4522] This resolution approves an Interconnection Agreement between SBC Advanced Solutions, Inc. and Apex Telecom, Inc. in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 29, filed February 7, 2005)
- 14** **R03-03-017 - Order Instituting Rulemaking on the Commission's own motion to re-examine the underlying issues involved in the submetering discount for mobile home parks and to stay D01-08-040.**
[4555] I03-03-018 - Related matters. This decision awards Latino Issues Forum \$28,960.15 in compensation for its contribution to D04-11-033. These proceedings are closed.
(Comr Brown - ALJ O'Donnell)
Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=191359

Regular Agenda

Regular Agenda - Energy Orders

15 **A02-03-047 - Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E).**
[4319]

A02-03-048, A02-03-049 - Related matters. This decision specifies the contents of the applications that Pacific Gas and Electric Company, SDG&E, Southern California Edison Company and SoCalGas should file in seeking future funding for their Low Emission Vehicle programs. Decision 03-10-086 approved prior requests for LEV funding, but ordered a process to refine the contents of the foregoing utilities' applications. These proceedings are closed.

(Comr Brown - ALJ Thomas)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3149, Item 14 3/17/2005 (Peevey);

Agenda 3151, Item 43 4/21/2005 (Kennedy)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194287

15a **ALTERNATE TO ITEM 4319**
[4560]

A02-03-048, A02-03-049 - Related matters. This alternate decision adopts, with slight modifications, the recommendation of the Joint Parties concerning the Investor-Owned Utilities' Low Emission Vehicle programs. Furthermore, this alternate removes the distinction between "discretionary" and "mandatory" Low Emission Vehicles programs and directs the Investor-Owned Utilities to file all Low Emission Vehicle programs as part of their general rate case or cost of service proceedings.

(Comr Kennedy)

16 **R04-04-026 - Order Instituting Rulemaking to implement the California Renewables Portfolio Standard Program.**
[4375]

This decision addresses the issue of the participation of renewable distributed generation (DG) in the Renewable Portfolio Standards (RPS) program, and spells out the general principles that will guide that participation particularly regarding Renewable Energy Credits (RECs). The decision finds that the owner of the renewable DG facilities own the RECs associated with the generation of electricity from those facilities, those RECs may be used to satisfy the utilities' RPS targets, and the RECs stay bundled with the associated electricity.

(Comr Peevey - ALJ Allen)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3150, Item 37 4/7/2005 (Staff);

Agenda 3151, Item 45 4/21/2005 (Staff)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194448

Regular Agenda - Energy Orders (continued)

17 A05-02-029 - Southern California Edison Company (SCE).

[4494] This decision approves, with modifications, SCE's proposal for incremental energy efficiency programs for Summer 2005. This proceeding is closed.

(Comr Kennedy - ALJ Weissman)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194653

17a ALTERNATE TO ITEM 4494

[4496] Southern California Edison Company (SCE) filed a proposal to augment energy efficiency programs designed to reduce peak demand for the summer 2005. This alternate approves the incremental funding for which SCE originally sought approval. This alternate is different from the proposed decision in that it approves some programs the proposed decision rejected.

(Comr Kennedy)

Regular Agenda - Energy Resolutions and Written Reports**18**

[4468]

Res E-3921 - Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E).

This resolution approves, subject to modification, changes to new residential electric and gas line and service extension allowances, and monthly charges for unused capacity of line extensions for new non-residential customers of SCE and SDG&E per Rules 15 and 16. It also requires SCE and SDG&E to clarify and coordinate language in Rules 2, 15, 16 and associated rules, to explain how the monthly cost of ownership charge relates to the Cost of Service (COS) factor, which is used in the calculation of the allowances. SDG&E shall work with the Energy Division to revise the language of the Agreement for Extension and Construction of Overhead/Underground Electric and Gas Facilities. (SCE Advice Letter (AL) 1847-E, filed December 15, 2004 and SDG&E AL 1647-E/1494-G, filed December 20, 2004)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=192634

Regular Agenda - Telecommunication Orders**19**
[4290] **R03-04-003 - Order Instituting Rulemaking on the Commission's own motion to comply with the mandates of Senate Bill 1563 regarding deployment of advanced telecommunications technologies.**

This decision satisfies the requirements of Senate Bill 1563 (Ch. 674, Stats. 2002), which requires the Commission to develop a plan for encouraging the widespread availability and use of advanced communications infrastructure and to report its findings and recommendations to the Governor and the Legislature. This proceeding is closed.

(Comr Kennedy - ALJ Malcolm)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

Agenda 3149, Item 44 3/17/2005 (Staff);

Agenda 3150, Item 43 4/7/2005 (Brown);

Agenda 3151, Item 53 4/21/2005 (Brown)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194154

19a
[4559] **ALTERNATE TO ITEM 4290**

This is an Alternate Draft Decision authorizing an alternate version of the Broadband Report authored by Commissioner Kennedy. This version documents potential problems with broadband deployment as well as the benefits of widespread deployment. It does so without encouraging preemption by the federal government.

(Comr Brown)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194708

20
[4378] **A04-05-039 - Lynch Telephone Corporation XI, Lynch Interactive Corporation, Brighton Communications Corporation, Cal-Ore Telephone Company and California-Oregon Telecommunications Corporation.**

This decision grants conditional authority under Section 854 for Lynch Interactive Corporation to acquire indirect control of Cal-Ore Telephone Co. and Cal-Ore Long Distance. This proceeding is closed.

(Comr Brown - ALJ Kenney)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3150, Item 46 4/7/2005 (Kennedy);

Agenda 3151, Item 54 4/21/2005 (Kennedy)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194135

Regular Agenda - Telecommunication Orders (continued)

20a ALTERNATE TO ITEM 4378

[4509] This alternate grants Lynch Interactive Corporation authority pursuant to Public Utilities Code §854(a) to acquire indirect control of Cal-Ore Telephone Company and Cal-Ore Long Distance, Inc., subject to six enumerated conditions. The alternate finds that the transfer of control subject to the specified conditions is in the public interest.
(Comr Kennedy)

Regular Agenda - Water/Sewer Orders**21**

[4317]

A03-04-025 - San Gabriel Valley Water Company.

For authority to implement a low income rate in its Los Angeles County Division in compliance with D02-10-058 in A01-10-028. This decision concludes consideration of low-income rate proposals.

This proceeding is closed.

(Comr Brown - ALJ Bushey)

Pub. Util. Code § 311 – This item was mailed for Public Comment.

Pub. Util. Code §1701.1 -- This proceeding is categorized as Ratesetting.

Agenda 3149, Item 48 3/17/2005 (Peevey);

Agenda 3150, Item 49 4/7/2005 (Grueneich);

Agenda 3151, Item 56 4/21/2005 (Grueneich)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194261

21a

[4413]

ALTERNATE TO ITEM 4317

This alternate accepts San Gabriel Water Company's low-income rate relief program known as California Alternative Rates for Water, or CARW, for its Los Angeles District.

(Comr Peevey)

Agenda 3150, Item 49a 4/7/2005 (Grueneich);

Agenda 3151, Item 56a 4/21/2005 (Grueneich)

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=192636

Regular Agenda - Legal Division Matters

- 22** **Res L-316**
[4466] Resolution L-316 authorizes the disclosure of records concerning a Consumer Protection and Safety Division, Safety and Reliability Branch, Utilities Safety Section investigation of an electric incident involving the facilities of the Southern California Edison Company in Yucca Valley, California on January 27, 2004, Incident No. E20040127-01.
- 23** **WC Docket No. 04-36 (FCC)**
[4564] In the matter of IP-Enabled Services, WC Docket No. 04-36 (FCC). To consider filing comments in the FCC's rulemaking proceeding regarding IP-enabled services.
- 24** **Res L-317**
[4565] This Resolution would authorize the Commission's Executive Director to cancel, suspend or revoke the license of Household Goods Carriers whose principals have been convicted of misdemeanors involving the HHG statute or certain types of felonies; including burglary, robbery, fraud or intentional dishonesty for personal gain. The Consumer Protection and Safety Division would report information about criminal convictions to the Executive Director who would in turn take action with regard to the operating permit of the carrier. The Executive Director is authorized to act (without prior notice to the carrier) to revoke, suspend or cancel the carriers' license pursuant to PU Code 5285(d).
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194093
- 25** **Res L-318**
[4566] This Resolution would authorize the Commission's Executive Director to cancel, suspend or revoke the license of Charter Party Carrier whose principals have been convicted of misdemeanors involving the Charter Party Carrier statute or certain categories felonies including robbery, larceny, burglary, fraud or intentional dishonesty. The Consumer Protection and Safety Division would report information about criminal convictions to the Executive Director who would in turn take action with regard to the operating permit of the carrier. The Executive Director is authorized to act without prior notice to the carrier to revoke, suspend or cancel the carriers' license pursuant to PU Code 5378(a)(3).
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194075

Regular Agenda - Legislative Matters

- 26** **AB 326 (Blakeslee)**
[4478] Telephone corporations: universal service.
 Agenda 3151, Item 27 4/21/2005 (Staff)
- 27** **AB 736 (J. Horton)**
[4492] Public utilities: regulation.
 Agenda 3151, Item 40 4/21/2005 (Staff)
- 28** **AB 745 (Blakeslee)**
[4482] Public utilities: eminent domain.
 Agenda 3151, Item 31 4/21/2005 (Staff)
- 29** **AB 746 (Blakeslee)**
[4548] Public utilities: billings.
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194455
- 30** **AB 903 (De La Torre)**
[4483] Cable television franchises.
 Agenda 3151, Item 32 4/21/2005 (Staff)
- 31** **AB 962 (Nunez)**
[4539] Railroad safety.
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194425
- 32** **AB 974 (Nunez)**
[4552] Energy resources: PUC: transmission siting.
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194447
- 33** **AB 1009 (Richman)**
[4486] Electricity: time-of-use pricing tariffs: real time metering.
 Agenda 3151, Item 34 4/21/2005 (Staff)
- 34** **AB 1082 (Ruskin)**
[4530] Telecommunications: consumer protection.

Regular Agenda - Legislative Matters (continued)

- 35** **AB 1274 (J. Horton)**
[4529] Telco: prepaid mobile telephone services.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194431
- 36** **AB 1380 (Gordon)**
[4562] Telco: new area codes.
- 37** **AB 1383 (Pavley)**
[4536] Solar energy: Low-income Housing Development Revolving Loan Program.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194424
- 38** **AB 1458 (De La Torre)**
[4527] Telco: lease of state property for wireless facilities.
- 39** **AB 1576 (Nunez)**
[4538] Electrical corporations: rates; repowering projects.
- 40** **AB 1723 (La Malfa)**
[4544] Integrated energy policy report.
- 41** **AB 1732 (La Malfa)**
[4543] Natural gas: Gas consumption Surcharge Fund.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194428
- 42** **AB 1735 (U&C)**
[4553] Telco: telephone corps: surcharge.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194451
- 43** **SB 15 (Escutia)**
[4534] Public Utilities Commission.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194426

Regular Agenda - Legislative Matters (continued)

- 44** **SB 204 (Bowen)**
[4531] Public Utilities Commission: State Energy Resources Conservation and Development Commission:
commission - memberships.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194517
- 45** **SB 386 (Campbell)**
[4485] PUC: inspection and audit of books & records.
Agenda 3151, Item 33 4/21/2005 (Staff)
- 46** **SB 396 (Battin)**
[4526] Telco: call pricing.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194518
- 47** **SB 426 (Simitian)**
[4537] State Energy Resources Conservation.
- 48** **SB 431 (Battin)**
[4541] Electricity: repowering of facilities.
- 49** **SB 580 (Escutia)**
[4542] Public Utilities Commission: Low-income Oversight Board.
- 50** **SB 608 (Escutia)**
[4491] PUC: Division of Ratepayer Advocates: office of the public advisor.
Agenda 3151, Item 39 4/21/2005 (Staff)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194429
- 51** **SB 769 (Simitian)**
[4540] Energy Reliability and Affordability Act.
- 52** **SB 1003 (Escutia)**
[4535] Energy resources: liquefied natural gas terminals.

Regular Agenda - Legislative Matters (continued)

53 **SB 1037 (Kehoe)**
[4545] Energy efficiency.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194466

54 **SB 1059 (Escutia)**
[4528] Electric transmission corridors.

55 **SB 1068 (Escutia)**
[4546] Telco: consumer protection.

Regular Agenda - Commissioner's Reports

Regular Agenda - Management Reports and Resolutions**56**

[4518]

Director Richard Clark Report

Designation of Consumer Protection and Safety Division investigators authorized to exercise the limited powers of a peace officer within the scope of their duties as specified in Penal Code section 830.11 and Pub. Util. Code section 308.5. This matter will be presented before the Commission for discussion and action.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=194678

Closed Session

This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the disclosures required by Government Code Sections 11125.2 and 11126.3(f).

Closed Session - Non-Federal

57

[4343]

Conference with Legal Counsel - Applications for Rehearing

Compilation of applications for rehearing recently filed with the Commission.

58

[4276]

R03-09-006 - Conference with Legal Counsel – Application for Rehearing

Disposition of Application for Rehearing and/or Request for Stay of D04-12-056 filed by Southern California Edison Company (SCE), and/or Disposition of Application for Rehearing of D04-12-056 filed by the Pacific Gas and Electric Company (PG&E) and the San Diego Gas and Electric Company (SDG&E). D04-12-056 prohibits the use of 'reverse auctions' in energy utility construction contract bidding procedures, a practice in which bidders compete for contracts by lowering their bids until the lowest bid is accepted. D04-12-056 also requires respondent utilities to ensure the payment of prevailing wages by their construction contractors in all construction. SCE, PG&E, and SDG&E, respondent utilities, seek rehearing on allegations that latter provision of D04-12-056 is preempted by federal law, contrary to Commission Rules, and not supported by the record of the proceeding. Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.

Agenda 3147, Item 48 2/10/2005 (Staff);

Agenda 3148, Item 42 2/24/2005 (Staff);

Agenda 3149, Item 53 3/17/2005 (Staff);

Agenda 3150, Item 72 4/7/2005 (Staff);

Agenda 3151, Item 64 4/21/2005 (Peevey)

Closed Session - Non-Federal (continued)

- 59**
[4515] **C03-05-023 - Conference with Legal Counsel - Application for Rehearing**
Disposition of Application for Rehearing of D05-01-034, filed by SBC of California and SBC Advanced Solutions (collectively SBC). In D04-05-006, the Commission denied a complaint against SBC, ruling that SBC did not unreasonably discriminate or otherwise violate applicable law by connecting SBC Internet Services (SBCIS) subscribers who dial 611 for DSL repair services directly to the SBCIS service center, while telling customers of unaffiliated ISPs to hang up and call their own ISP. D05-01-034 granted limited rehearing of that decision, and held that SBC's differential treatment of customers who call 611 due to questions or difficulty with DSL service constitutes unreasonable discrimination.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.
- 60**
[4521] **R01-09-001 - Conference with Legal Counsel - Application for Rehearing**
I01-09-002 - Related matters. Disposition of Application for Rehearing of D04-09-061 filed by the SBC California. D04-09-061, among other things, orders the Commission's Office of Ratepayer Advocates to commence a comprehensive audit of SBC covering the years 2000 through 2003. The interim decision also orders SBC to reimburse ORA for the cost of consultants assisting with the staff audit and permits the utility to seek to recoup these costs in its annual Advice Letter requesting LE recovery for cost increases or decreases.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.
Gov. Code § 11126.3(d), allows this item to be considered in Closed Session.
- 61**
[4525] **A02-12-028 - Conference with Legal Counsel - Application for Rehearing**
Disposition of application for rehearing of D04-12-015, filed by San Diego Gas & Electric Company. D04-12-015, in the Test Year 2004 Cost of Service proceeding for SDG&E, involves among other things, the calculation of SDG&E's share of San Onofre Nuclear Generating Station costs.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session.

Closed Session - Initiation of Litigation - Non-Federal

Consideration of possible Commission initiation of, or intervention in, litigation.

Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.

Closed Session - Threatened Litigation - Non-Federal

Significant exposure to litigation

Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session

Closed Session - Personnel Matters

Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee.

Gov. Code § 11126(a), allows this item to be considered in Closed Session

Closed Session - Threatened Litigation - Federal

Significant exposure to litigation in federal agency or court proceedings.

Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session

Closed Session - Initiation of Litigation - Federal

Consideration of possible Commission initiation of, or intervention in, federal agency or court proceedings.

Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session.

Closed Session - Federal**62**

[4345]

Case Nos. C 04-00580 VRW (Bankruptcy Case No. 01 30923 DM) - Conference with Legal Counsel - Existing Litigation

Loretta Lynch vs. California Public Utilities Commission, Pacific Gas and Electric Company (Debtor), U.S. District Court for the Northern District of California, Case No. C 04-00580 VRW; Pacific Gas and Electric Company (Debtor), United States Bankruptcy Court, Northern District of California, San Francisco Division, Case No. 01 30923 DM.

Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.

Closed Session - FERC Docket No. EL00-95-000

Conference with Legal Counsel - Existing Litigation; San Diego Gas & Electric Co., EL00-95-000

Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session.